

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	CC Docket 80-286
Jurisdictional Separations Reform and)	
Referral to the Federal-State Joint Board)	

**Comments of TCA, Inc. – Telcom Consulting Associates Regarding Options for
Comprehensive Separations Reform**

I. Introduction and Summary

TCA, Inc. – Telcom Consulting Associates (TCA) submits these comments in response to the Commission’s December 20, 2001 Public Notice requesting comment on the “Glide Path” policy paper filed by state members of the Federal-State Joint Board on Jurisdictional Separations.

TCA is a regulatory and financial consulting firm that provides services to rural local exchange carriers (LEC) throughout the United States. A large majority of TCA’s clients are rate-of-return regulated and thus are directly impacted by any changes to the Commission’s Jurisdictional Separations rules.

In summary, TCA does not believe that an additional major interim overhaul of the FCC’s separations rules is necessary for rural, rate-of-return regulated, local exchange carriers (RLEC) any time in the next five years, and may not be necessary at all. The FCC ordered separations factors frozen through June 2006¹, which addressed the most serious concerns with the current separations rules caused by the growth of Internet traffic. This step to freeze factors, perhaps

with minor changes, is sufficient to reform separations rules through 2006 and more than likely beyond 2006. Absent FCC completion of other RLEC reforms, most notably universal service, access charge/intercarrier compensation, and regulatory framework reform, TCA does not believe it wise, or even possible, to further change jurisdictional separations procedures.

II. Broad Questions

The Glide Path paper asks several broad questions and discusses several broad goals². In general, the Paper's authors seek comment on the best method to transition from today's separations rules to the separations rules that will be necessary in an undefined new environment. The authors ask if separations can be abolished altogether, if the current freeze is to continue, what changes should be made, and what methods should be used to arrive at the next phase of separations. The Paper's authors also address several broad goals that should drive consideration of the next phase of separations.

TCA does not believe separations can be abolished altogether until several other changes occur first. As stated above, the Commission has essentially delayed further universal service reform for five years, and has instead chosen to provide RLECs with a stable regulatory environment³.

The Commission has also completed at least initial reform of the RLECs' interstate access

¹ *In the Matter of Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Order released May 22, 2001

² Glide Path paper, Section II.

³ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Fourteenth Report and Order and Twenty-Second Order on Reconsideration, *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, Report and Order (*Rural Task Force Order*), ¶10

charge regime, and is considering changes to rate of return carriers' regulatory framework⁴.

These reforms are indelibly intertwined with jurisdictional separations procedures, and therefore must be complete before separations can be comprehensively reformed. In addition, the Paper's authors correctly list competition as a major factor in considering universal service reform. In fact, it is the status of competition in RLEC areas that should be the trigger point in considering the next phase of separations.

TCA believes that jurisdictional separations procedures should remain essentially unchanged until competition dictates otherwise. It is the presence of competition that will necessitate changes to traditional rate-of-return regulation, which will in turn necessitate changes in other parts of the current regulatory structure, separations being one of many. TCA can determine no benefit to RLECs or their customers from implementing transitional separations reform designed to reach the end of separations, when the necessity to end separations will come as competition arrives.

III. Options

The Glide Path Paper discusses several options, or proposals, for a method to transition to a post-freeze separations environment. Instead of comprehensively addressing each option, TCA will provide the Commission with an overall recommendation on how to proceed with separations reform. This recommendation will include portions of several of the Glide Path options.

⁴ *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, Second Report and Order and Further Notice of Proposed Rulemaking (*MAG Order*).

Overall, TCA recommends the Commission adopt Option #1⁵, which discusses an extension of the current freeze, with consideration of other items discussed below. At the end of the current freeze period, TCA recommends the Commission review the status and impact of frozen separations factors, determine if there is a convincing need to re-examine and rebase the usage factor measurement period, and provide RLECs with another opportunity to freeze categories.

TCA recognizes there may be a convincing need in the next five years to consider the impact packet-mode communication is having on traditional separations procedures. In addition, there is a need for separations rules to be more flexible and be able to recognize changes made necessary by technological, legal, jurisdictional, and political changes. TCA has addressed separations reform in instances where competition necessitates change. The Paper's authors appear to count packet-based communications as a future technology that will necessitate separations changes⁶. Therefore, TCA believes there is merit in the Paper's Option #4, which discusses the redesign of separations to account for packets and competition. The "project" contemplated by the Paper⁷ should encompass finding a method to differentiate between circuit and packet equipment, and finding a process to jurisdictionally separate both types of investment based on usage factors. This project would give the Commission an opportunity to not only determine how to separate packet-based equipment, but would also allow a reexamination of the factors used to separate circuit equipment.

⁵ Glide Path paper, Section III

⁶ Glide Path paper, Section VI.A.2.

⁷ Glide Path paper, Section VI.B.1.

TCA does not believe the other Options presented in the Glide Path Paper are either necessary or desirable⁸. The other Options contemplate major separations overhaul, and, in many instances, could serve to substantially increase cost allocations to the state jurisdiction, thereby increasing pressure to raise local rates. As a result, the FCC should not adopt these options as a transition to the end of separations.

IV. Conclusion

TCA recommends the Commission not adopt a “glide path” to the end of separations at this time or at the end of the current separations factor freeze in 2006. Instead, TCA recommends the Commission adopt the Paper’s Option #1 and extend the factor freeze, with the modifications discussed above, until such time that the status of competition in RLEC areas dictates otherwise. Separations should reflect the regulatory status of the RLECs, and thus should not change unless and until the regulatory status changes. In addition, contemplating comprehensive separations reform in the guise of a “glide path” at this time is not advisable considering RLEC universal service and intercarrier compensation reform have not been completely implemented.

Respectfully Submitted,

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[Filed Electronically]

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⁸ The other options presented in the Glide Path paper are: Option #2, Separate Traffic Sensitive Costs with Fixed Allocators (Section IV); Option #3, Total Company Revenue Requirement (Section V); Option #5, Facilities-Based Separations (Section VII); Option #6, End of Separations – One Jurisdiction (Section VIII); Option #7 – Competition Overtakes Regulation (Section XI).